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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/188,702	08/13/1998	ERIC CLEVER	5012-2	4649

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EXAMINER

NGUYEN, KIEN T

ART UNIT PAPER NUMBER

3712

DATE MAILED: 09/10/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



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GROUP 3700

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

Paper No. 23

Application Number: 09/188,702

Filing Date: August 13, 1998

Appellant(s): CLEVER ET AL.

\_\_\_\_\_  
Norman E. Lehrer  
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed June 13, 2002.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

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**(2) *Related Appeals and Interferences***

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

No amendment after final has been filed.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is correct.

**(7) *Grouping of Claims***

The appellant's statement in the brief that certain claims do not stand or fall together is not agreed with because appellant failed to give reasons why each of the groups as listed in the Brief is separately patentable from each of the other groups.

**(8) *Claims Appealed***

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) *Prior Art of Record***

**(10) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glickman U.S. Patent 5,350,331.

In Fig. 25, Glickman ('331) disclosed a connector comprising a round disc plastic member having at least two holes formed therein and adapted to mate with a connector (401) by means of an interference fit when the connector (401) is insert into the holes; the holes being trapezoidal with a web material separating the holes from each other. It is noted that at least one and/or two of the holes are not in triangularly shaped with three internal corners, and one of the corners of at least one hole being closer to the other of the two holes than the other of the three corners as set forth in claim 6, 9, 10, 11. However, the shape of the holes dictated by the shape of the connector and the specification does not express any advantage of the two-fingered genderless connector over other types of connector. Therefore, it would have been obvious to one of ordinary skill in the art to modify the shape of the holes to conform to the shape of the desired

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connector such as two-fingered genderless connector for the advantage of enhancing the connection between the connectors.

Regarding the narrow passage extending between the holes as set forth in claims 8 and 12, such feature is also dictated by the shape of the connector as well. Accordingly, it would have been obvious to one of ordinary skill in the art to modify the shape of the holes to conform to the desired connector for the reason as set forth above.


**(11) Response to Argument**

In response to applicant's argument that Glickman ('331) failed to show two holes that are adapted to mate with a two-fingered genderless connector, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Applicant is reminded that the expression "adapted to mate with a two-fingered genderless connector" is not a positive recitation of a two-fingered genderless connector nor the two-fingered genderless connector is a part of the female connectors as set forth in the preamble of claim 6. It is submitted that the holes in Fig. 25 of Glickman as suggested by the Examiner are capable of being mated with the two-fingered genderless connector.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Kien T. Nguyen  
Primary Examiner  
Art Unit 3712

KTN

September 4, 2002

Conferees

Supervisory Patent Examiner Derris Banks

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